



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY/DOCKET NO.	CONFIRMATION NO.
09/603,390	06/23/2000	August Hochenberger	P/3331-132	1103
7590	01/27/2004		EXAMINER	
Steven I. Weisburd, Esq. Dickstein Shapiro Morin & Oshinsky LLP 1177 Avenue of the Americas 41st Floor New York, NY 10036-2714			WASYLCHAK, STEVEN R	
			ART UNIT	PAPER NUMBER
			3624	
DATE MAILED: 01/27/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/603,390	HOCHENBERGER ET AL.
	Examiner	Art Unit
	Steven R. Wasylchak	3624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on Nov. 24, 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-33 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on Nov. 24, 2004 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- | | |
|--|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ . | 6) <input type="checkbox"/> Other: _____ . |

Response to Arguments

1. This office action is in response to Applicant's amendment dated Nov.21, 2003.
2. The Official Notice used is capable of instant and unquestionable demonstration as being well-known by the application of 2 dictionaries, which are capable of instant and unquestionable demonstration as being well-known in the business art and were used as explicit evidence in the explanation of the applied Official Notice. Applicant has chosen not to mention the evidence of dictionaries and the cross trading definition found therein. No reason is given for this omission. Examiner respectively requests the Applicant to fully address the relevance of the dictionaries' definitions of cross trading, which Examiner sees as being of *paramount* importance, with respect to the claims which were rejected by Official Notice and cross trading.
3. *In re Eynde* is materially factually distinct such that its holding does not apply.
4. To argue that "further trades" in the context of an anonymous trading system such as the New York Stock Exchange or NASDAQ are not well known is to ignore the voluminous stock transactions on the various stock exchanges for at least decades. Applicant will make no such admission.
5. No matter what trading system is chosen, including Applicant's, ultimately any original anonymity between the seller and buyer is eliminated and their identities are ultimately known by a third party or third parties to the transaction upon the settlement of accounts as required for the consummation of the transaction. Therefore, Togher et al, which fits this description as well, would apply to one of ordinary skill in the business art.

6. On page 8, "substantially the same price" alters the meaning of "same price" in claim 11. Explanation is required.

7. Objections to the formal drawing that are to be corrected:

-fig 1, 2, 4, etc. have trading agent as 10 for each agent implying they are the same.

Differentiating the elements is required if they are not identical trading agents as was done for brokers in the figures.

-fig 1,2,3, etc. should have bi-directional arrows where applicable to clarify enablement where two way communication/path exist so as to distinguish this from one way communication/path.

-eliminate 15, 20 on the amended fig 13.

This action is **NON-FINAL**. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven R. Wasylchak whose telephone number is (703) 308-2848. The examiner can normally be reached on Monday-Thursday from 7:00 a.m. to 6:00 p.m. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin, can be reached at (703) 308-1065. The fax number for Art Unit 3624 is (703) 305-7687.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Steven Wasylchak *sw* 1/22/04


DR. GEOFFREY R. ANDREWS, P.E.
15 RV EXAMINER